

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

M,A, YAH,

Plaintiff,

vs.

THE CITY OF OMAHA, a political
subdivision of the State of Nebraska;
SERGEANT AARON HANSON of the
Omaha Police Department, &
THE OMAHA POLICE DEPARTMENT

Defendants.

CASE NO: 8:22CV_____

**NOTICE OF REMOVAL
AND
DEMAND FOR JURY TRIAL**

COMES NOW the City of Omaha, Sergeant Aaron Hanson, and The Omaha Police Department, the Defendants in the above-entitled action, and remove this action to this United States District Court for the District of Nebraska upon the following showing:

1. On May 9, 2022 the Plaintiff filed a complaint in an action entitled M,A, Yah vs. Sergeant Aaron Hanson, of the Omaha Police Department, and the Omaha Police Department, and identified as Case No. CI 22-3390 in Douglas County District Court in the state of Nebraska, where it is presently pending. That Complaint asserted that the Defendants' conduct deprived the Plaintiff of his rights under Nebraska Revised Statute §20-501 and seeks relief on that basis. Although the Plaintiff makes reference to "Constitutional Rights to Due Process of Law" in the introductory paragraph of the May 9th Complaint, the Plaintiff only prays for relief for "Racially Profiling the Plaintiff" in violation of Nebraska statutes, and does not reference the United States

Constitution, federal statutes or regulations, or otherwise raise a federal question in the May 9th Complaint.

2. The Plaintiff then caused the Clerk of the District Court to issue a summons on or about May 9, 2022. The summons was directed to Sergeant Aaron Hanson, and served on or about May 10, 2022.

3. The Plaintiff's May 9th Complaint was dismissed by Order of the District Court for the Fourth Judicial District of Nebraska on August 1, 2022. The Plaintiff thereafter was given leave to file an amended complaint.

4. On September 16, 2022, the Plaintiff filed an Amended Complaint, captioned M,A, Yah vs. City of Omaha and the Omaha Police Department. A true and accurate copy of the Amended Complaint is attached hereto as Exhibit 1. The Amended Complaint asserts that the captioned Defendants' and Defendant Hanson's conduct deprived Plaintiff of his federal constitutional rights and that Plaintiff seeks recovery under 42 U.S.C. §1983.

5. Plaintiff hand delivered the Amended Complaint, without a summons, to the City of Omaha Law Department on or about September 16, 2022. The Amended Complaint received on or about September 16, 2022 is the first pleading from which it can be ascertained that the case is removable.

6. The amended Complaint was dismissed for lack of prosecution through an automated process by the Clerk of the Douglas County District Court on October 13th, 2022. A true and accurate copy of the Order to Dismiss is attached hereto as Exhibit 2. On this date, per 28 U.S.C. § 1446, Defendants had one day left to remove the case to the Federal District Court for the District of Nebraska. On November 1st, 2022, by order of the Douglas County District Court, the order to dismiss was set aside and the case was reinstated. A true and accurate copy

of the Order reinstating the case is attached hereto as Exhibit 3. Defendants have until November 2nd, 2022 to remove the case.

6. The Amended Complaint in the pending action presents a claim arising under the United States Constitution, treaties, or laws of the United States and is removable from the State court in accordance with 28 U.S.C. § 1441(a).

7. All Defendants named in the Amended Complaint join in this Removal.

8. Service of process was made and/or the Amended Complaint was received by these named Defendants on or about September 16, 2022. Excluding the time period between the date the case was dismissed on October 13th, 2022 and the date the case was reinstated on November 1st, 2022, this Notice of Removal during which the case was in an inactive status, this removal action is filed within thirty days after any named Defendant first received or was served with the Amended Complaint and within 30 days after it could be ascertained that the case is removable.

9. Pursuant to 28 U.S.C. § 1331 this Court has original jurisdiction of the claim filed by Plaintiff in the District Court of Douglas County, Nebraska, and the action may, therefore, be removed to this Court pursuant to 28 U.S.C. § 1441.

WHEREFORE, the named Defendants pray that the above entitled action be removed from the District Court of Douglas County, Nebraska to this Court.

DEMAND FOR JURY TRIAL

Defendants respectfully request a jury trial in Omaha, Nebraska.

THE CITY OF OMAHA, SEREANT AARON
HANSON of the Omaha Police Department, &
THE CITY OF OMAHA POLICE
DEPARTMENT, Defendants.

By: s/ Tyler E. Hiipakka
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Attorneys for the listed Defendants

CERTIFICATE OF SERVICE

I hereby certify that on 1st day of November, 2022, I filed the foregoing **NOTICE TO REMOVE** with the Clerk of the Court using the CM/ECF system, and I sent notification of such filing by first class mail, postage prepaid, addressed to:

M,A, Yah
4865 Center St, Suite 5
Omaha, NE 68106

s/ Tyler E. Hiipakka